

Senate Study Bill 3114 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

A BILL FOR

1 An Act concerning child welfare, including provisions relating
2 to children under the custody, control, and supervision of
3 the department of human services and provisions relating to
4 children who are sex trafficking victims.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 4, unnumbered
2 paragraph 1, Code 2016, is amended to read as follows:
3 "*Case permanency plan*" means the plan, mandated by Pub. L.
4 No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C.
5 §622(b)(10), 671(a)(16), and 675(1),(5), which is designed to
6 achieve placement in the most appropriate, least restrictive,
7 and most family-like setting available and in close proximity
8 to the parent's home, consistent with the best interests and
9 special needs of the child, and which considers the placement's
10 proximity to the school in which the child is enrolled at
11 the time of placement. The plan shall be developed by the
12 department or agency involved and the child's parent, guardian,
13 or custodian. If the child is fourteen years of age or older,
14 the plan shall be developed in consultation with the child and,
15 at the option of the child, with up to two persons chosen by
16 the child to be members of the child's case planning team if
17 such persons are not a foster parent of, or caseworker for, the
18 child. The department may reject a person selected by a child
19 to be a member of the child's case planning team at any time
20 if the department has good cause to believe that the person
21 would not act in the best interests of the child. One person
22 selected by a child to be a member of the child's case planning
23 team may be designated to be the child's advisor or, if
24 necessary, the child's advocate with respect to the application
25 of the reasonable and prudent parent standard. The plan shall
26 specifically include all of the following:
27 Sec. 2. Section 232.2, subsection 4, paragraph f, Code 2016,
28 is amended to read as follows:
29 f. (1) When a child is ~~sixteen~~ fourteen years of age
30 or older, a written transition plan of services, supports,
31 activities, and referrals to programs which, based upon an
32 assessment of the child's needs, would assist the child in
33 preparing for the transition from foster care to adulthood.
34 The transition plan and needs assessment shall be developed
35 with a focus on the services, other support, and actions

1 necessary to facilitate the child's successful entry into
2 adulthood. The transition plan shall be personalized at the
3 direction of the child and shall be developed with the child
4 present, honoring the goals and concerns of the child, and
5 shall address the following areas of need ~~when the child~~
6 ~~becomes an adult~~ for the child's successful transition from
7 foster care to adulthood, including but not limited to all of
8 the following:

- 9 (a) Education.
10 (b) Employment services and other workforce support.
11 (c) Health and health care coverage.
12 (d) Housing and money management.
13 (e) Relationships, including local opportunities to have a
14 mentor.

15 (f) If the needs assessment indicates the child is
16 reasonably likely to need or be eligible for services or
17 other support from the adult service system upon reaching age
18 eighteen, the transition plan shall provide for the child's
19 application for adult services.

20 (2) The transition plan shall be considered a working
21 document and shall be reviewed and updated ~~for each permanency~~
22 ~~hearing by the court or other formal case permanency plan~~
23 review during a periodic case review, which shall occur at a
24 minimum of once every six months. The transition plan shall
25 also be reviewed and updated during the ninety calendar-day
26 period preceding the child's eighteenth birthday and during the
27 ninety calendar-day period immediately preceding the date the
28 child is expected to exit foster care, if the child remains
29 in foster care after the child's eighteenth birthday. The
30 transition plan may be reviewed and updated more frequently.

31 (3) The transition plan shall be developed and reviewed
32 by the department in collaboration with a child-centered
33 transition team. The transition team shall be comprised of
34 the child's caseworker and persons selected by the child,
35 persons who have knowledge of services available to the child,

1 and any person who may reasonably be expected to be a service
2 provider for the child when the child becomes an adult or to
3 become responsible for the costs of services at that time.
4 If the child is reasonably likely to need or be eligible for
5 adult services, the transition team membership shall include
6 representatives from the adult services system. ~~The adult~~
7 ~~services system representatives may include but are not limited~~
8 ~~to the administrator of county general relief under chapter~~
9 ~~251 or 252 or the regional administrator of the county mental~~
10 ~~health and disability services region, as defined in section~~
11 ~~331.388.~~ The membership of the transition team and the meeting
12 dates for the team shall be documented in the transition plan.
13 (4) The final transition plan shall specifically identify
14 how the need for housing will be addressed.
15 (5) If the child is interested in pursuing higher education,
16 the transition plan shall provide for the child's participation
17 in the college student aid commission's program of assistance
18 in applying for federal and state aid under [section 261.2](#).
19 (6) If the needs assessment indicates the child is
20 reasonably likely to need or be eligible for services or
21 other support from the adult service system upon reaching age
22 eighteen, the transition plan shall be reviewed and approved
23 by the transition committee for the area in which the child
24 resides, in accordance with [section 235.7](#), before the child
25 reaches age seventeen and one-half. The transition committee's
26 review and approval shall be indicated in the case permanency
27 plan.
28 (7) Provision for the department or a designee of the
29 department on or before the date the child reaches age
30 eighteen, unless the child has been placed in foster care for
31 less than six months, to provide to the child a certified copy
32 of the child's birth certificate, ~~and to facilitate securing~~
33 ~~a federal social security card,~~ and driver's license or
34 government-issued nonoperator's identification card. The fee
35 for the certified copy of the child's birth certificate that is

1 otherwise chargeable under [section 144.13A](#), [144.46](#), or [331.605](#)
2 shall be waived by the state or county registrar.

3 Sec. 3. Section 232.2, Code 2016, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 45A. "*Reasonable and prudent parent*
6 *standard*" means the same as defined in section 237.1.

7 Sec. 4. Section 232.58, subsection 3, paragraph d,
8 subparagraph (4), Code 2016, is amended to read as follows:

9 (4) If the child is sixteen years of age or older and
10 the department has documented to the court's satisfaction a
11 compelling reason for determining that an order under the
12 other subparagraphs of this paragraph "*d*" would not be in the
13 child's best interest, order another planned permanent living
14 arrangement for the child.

15 Sec. 5. Section 232.58, Code 2016, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 3A. If the court enters an order for
18 another planned permanent living arrangement pursuant to
19 subsection 3, paragraph "*d*", the court shall do all of the
20 following:

21 a. Ask the child about the child's desired permanency
22 outcome and make a judicial determination that another planned
23 permanent living arrangement is the best permanency plan for
24 the child.

25 b. Require the department to do all of the following:

26 (1) Document the efforts to place a child permanently with a
27 parent, relative, or in a guardianship or adoptive placement.

28 (2) Document that the planned permanent living arrangement
29 is the best permanency plan for the child and compelling
30 reasons why it is not in the child's best interest to be placed
31 permanently with a parent, relative, or in a guardianship or
32 adoptive placement.

33 (3) Document all of the following at the permanency hearing
34 and the six-month periodic review:

35 (a) The steps the department is taking to ensure that the

1 planned permanent living arrangement follows the reasonable and
2 prudent parent standard.

3 (b) Whether the child has regular opportunities to engage in
4 age-appropriate or developmentally appropriate activities.

5 Sec. 6. Section 232.68, subsection 2, paragraph a, Code
6 2016, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (11) The recruitment, harboring,
8 transportation, provision, obtaining, patronizing, or
9 soliciting of a child for the purpose of commercial sexual
10 activity as defined in section 710A.1.

11 Sec. 7. Section 232.68, Code 2016, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 01. "*A severe form of trafficking in*
14 *persons*" means sex trafficking in which commercial sexual
15 activity, as defined in section 710A.1, is induced by force,
16 fraud, or coercion, or in which the person induced to perform
17 such act has not attained eighteen years of age.

18 NEW SUBSECTION. 10. "*Sex trafficking*" means the
19 recruitment, harboring, transportation, provision, obtaining,
20 patronizing, or soliciting of a person for the purpose of
21 commercial sexual activity as defined in section 710A.1.

22 NEW SUBSECTION. 11. "*Sex trafficking victim*" means a victim
23 of any of the following:

- 24 a. A severe form of trafficking in persons.
25 b. Sex trafficking.

26 Sec. 8. Section 232.70, subsections 8 and 9, Code 2016, are
27 amended to read as follows:

28 ~~8. If a report would be determined to constitute an~~
29 ~~allegation of child abuse as defined under section 232.68,~~
30 ~~subsection 2, paragraph "a", subparagraph (3) or (5), except~~
31 ~~that the suspected abuse resulted from the acts or omissions~~
32 ~~of a person other than a person responsible for the care of the~~
33 ~~child, the department shall refer the report to the appropriate~~
34 ~~law enforcement agency having jurisdiction to investigate the~~
35 ~~allegation. The department shall refer the report orally~~

1 ~~as soon as practicable and in writing within seventy-two~~
2 ~~hours of receiving the report. Within twenty-four hours of~~
3 ~~receiving a report from a mandatory or permissive reporter,~~
4 ~~the department shall inform the reporter, orally or by other~~
5 ~~appropriate means, whether or not the department has commenced~~
6 ~~an assessment of the allegation in the report.~~

7 9. ~~Within twenty-four hours of receiving a report from a~~
8 ~~mandatory or permissive reporter, the department shall inform~~
9 ~~the reporter, orally or by other appropriate means, whether~~
10 ~~or not the department has commenced an assessment of the~~
11 ~~allegation in the report. If a report would be determined~~
12 ~~to constitute an allegation of child abuse as defined under~~
13 ~~section 232.68, subsection 2, paragraph "a", subparagraph (3)~~
14 ~~or (5), except that the suspected abuse resulted from the acts~~
15 ~~or omissions of a person other than a person responsible for~~
16 ~~the care of the child, the department shall refer the report~~
17 ~~to the appropriate law enforcement agency having jurisdiction~~
18 ~~to investigate the allegation. The department shall refer the~~
19 ~~report orally as soon as practicable and in writing within~~
20 ~~seventy-two hours of receiving the report.~~

21 Sec. 9. Section 232.70, Code 2016, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 10. If the department has reasonable
24 cause to believe that a child under the placement, care, or
25 supervision of the department is, or is at risk of becoming,
26 a sex trafficking victim, the department shall do all of the
27 following:

28 a. Identify the child as a sex trafficking victim or at risk
29 of becoming a sex trafficking victim and include documentation
30 in the child's department records.

31 b. Refer the child for appropriate services.

32 c. Refer the child identified as a sex trafficking victim,
33 within twenty-four hours, to the appropriate law enforcement
34 agency having jurisdiction to investigate the allegation.

35 Sec. 10. Section 232.71B, subsection 1, paragraph a,

1 subparagraph (1), Code 2016, is amended to read as follows:

2 (1) Upon acceptance of a report of child abuse, the
3 department shall commence a child abuse assessment when the
4 report alleges child abuse as defined in section 232.68,
5 subsection 2, paragraph "a", subparagraphs (1) through (3) and
6 subparagraphs (5) through ~~(10)~~ (11), or which alleges child
7 abuse as defined in section 232.68, subsection 2, paragraph "a",
8 subparagraph (4), that also alleges imminent danger, death, or
9 injury to a child.

10 Sec. 11. Section 232.71B, subsection 3, Code 2016, is
11 amended to read as follows:

12 3. *Involvement of law enforcement.*

13 a. The department shall apply protocols, developed with the
14 local child protection assistance team established pursuant to
15 section 915.35, to prioritize the actions taken in response
16 to a child abuse assessment and shall work jointly with child
17 protection assistance teams and law enforcement agencies in
18 performing assessment and investigative processes for child
19 abuse assessments in which a criminal act harming a child is
20 alleged. The county attorney and appropriate law enforcement
21 agencies shall also take any other lawful action which may be
22 necessary or advisable for the protection of the child.

23 b. If a report is determined not to constitute a child
24 abuse allegation or if the child abuse report is accepted
25 but assessed under the family assessment, but a criminal act
26 harming a child is alleged, the department shall immediately
27 refer the matter to the appropriate law enforcement agency.

28 c. If the department has reasonable cause to believe that
29 a child under the placement, care, or supervision of the
30 department is, or is at risk of becoming, a sex trafficking
31 victim, the department shall do all of the following:

32 (1) Identify the child as a sex trafficking victim or
33 at risk of becoming a sex trafficking victim and include
34 documentation in the child's department records.

35 (2) Refer the child for appropriate services.

1 (3) Refer the child identified as a sex trafficking victim,
2 within twenty-four hours, to the appropriate law enforcement
3 agency having jurisdiction to investigate the allegation.

4 d. The department shall report a child under the placement,
5 care, or supervision of the department who is reported as
6 missing or abducted to law enforcement and to the national
7 center for missing and exploited children within twenty-four
8 hours of receipt of the report.

9 Sec. 12. Section 232.102, subsection 1, paragraph a,
10 subparagraph (3), Code 2016, is amended to read as follows:

11 (3) The department of human services. If the child is
12 placed in a juvenile shelter care home or with an individual
13 or agency as defined in section 237.1, the department shall
14 assign decision-making authority to the juvenile shelter care
15 home, individual, or agency for the purpose of applying the
16 reasonable and prudent parent standard during the child's
17 placement.

18 Sec. 13. Section 232.104, subsection 2, paragraph d,
19 subparagraph (4), Code 2016, is amended to read as follows:

20 (4) If the child is sixteen years of age or older and
21 the department has documented to the court's satisfaction a
22 compelling reason for determining that an order under the
23 other subparagraphs of this paragraph "d" would not be in the
24 child's best interest, order another planned permanent living
25 arrangement for the child.

26 Sec. 14. Section 232.104, Code 2016, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 2A. If the court enters an order for
29 another planned permanent living arrangement pursuant to
30 subsection 2, paragraph "d", the court shall do all of the
31 following:

32 a. Ask the child about the child's desired permanency
33 outcome and make a judicial determination that another planned
34 permanent living arrangement is the best permanency plan for
35 the child.

1 *b.* Require the department to do all of the following:

2 (1) Document the efforts to place a child permanently with a
3 parent, relative, or in a guardianship or adoptive placement.

4 (2) Document that the planned permanent living arrangement
5 is the best permanency plan for the child and compelling
6 reasons why it is not in the child's best interest to be placed
7 permanently with a parent, relative, or in a guardianship or
8 adoptive placement.

9 (3) Document all of the following at the permanency hearing
10 and the six-month periodic review:

11 (a) The steps the department is taking to ensure that the
12 planned permanent living arrangement follows the reasonable and
13 prudent parent standard.

14 (b) Whether the child has regular opportunities to engage in
15 age-appropriate or developmentally appropriate activities.

16 Sec. 15. Section 232.127, subsection 10, Code 2016, is
17 amended to read as follows:

18 10. If the child is ~~sixteen~~ fourteen years of age or older
19 and an order for an out-of-home placement is entered, the
20 order shall specify the services needed to assist the child in
21 preparing for the transition from foster care to adulthood. If
22 the child has a case permanency plan, the court shall consider
23 the written transition plan of services and needs assessment
24 developed for the child's case permanency plan. If the child
25 does not have a case permanency plan containing the transition
26 plan and needs assessment at the time the order is entered, the
27 written transition plan and needs assessment shall be developed
28 and submitted for the court's consideration no later than six
29 months from the date of the transfer order. The court shall
30 modify the initial transfer order as necessary to specify
31 the services needed to assist the child in preparing for the
32 transition from foster care to adulthood. If the transition
33 plan identifies services or other support needed to assist
34 the child ~~when the child becomes an adult~~ in transitioning
35 from foster care to adulthood and the court deems it to be

1 beneficial to the child, the court may authorize the individual
2 who is the child's guardian ad litem or court appointed special
3 advocate to continue a relationship with and provide advice to
4 the child for a period of time beyond the child's eighteenth
5 birthday.

6 Sec. 16. Section 232.183, subsection 5, paragraph d, Code
7 2016, is amended to read as follows:

8 d. If the child is ~~sixteen~~ fourteen years of age or older,
9 the order shall specify the services needed to assist the child
10 in preparing for the transition from foster care to adulthood.
11 If the child has a case permanency plan, the court shall
12 consider the written transition plan of services and needs
13 assessment developed for the child's case permanency plan. If
14 the child does not have a case permanency plan containing the
15 transition plan and needs assessment at the time the order is
16 entered, the transition plan and needs assessment shall be
17 developed and submitted for the court's consideration no later
18 than six months from the date of the transfer order. The court
19 shall modify the initial transfer order as necessary to specify
20 the services needed to assist the child in preparing for the
21 transition from foster care to adulthood. If the transition
22 plan identifies services or other support needed to assist
23 the child ~~when the child becomes an adult~~ in transitioning
24 from foster care to adulthood and the court deems it to be
25 beneficial to the child, the court may authorize the individual
26 who is the child's guardian ad litem or court appointed special
27 advocate to continue a relationship with and provide advice to
28 the child for a period of time beyond the child's eighteenth
29 birthday.

30 Sec. 17. Section 237.1, Code 2016, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 9. "*Reasonable and prudent parent standard*"
33 means the standard characterized by careful and sensible
34 parenting decisions that maintain the health, safety, and
35 best interests of a child, while at the same time encouraging

1 the emotional and developmental growth of a child, that a
 2 caregiver shall use when determining whether to allow a child
 3 in foster care under the placement, care, or supervision of
 4 the department to participate in extracurricular, enrichment,
 5 cultural, or social activities. For the purposes of this
 6 subsection, "*caregiver*" means an individual or an agency
 7 licensed under this chapter with which a child in foster care
 8 has been placed or a juvenile shelter care home approved under
 9 chapter 232 in which a child in foster care has been placed.

10 Sec. 18. NEW SECTION. 237.14A Reasonable and prudent parent
 11 standard — immunity from liability.

12 The department, or any individual, agency, or juvenile
 13 shelter care home that applies the reasonable and prudent
 14 parent standard in good faith in regard to a child in foster
 15 care shall have immunity from civil or criminal liability which
 16 might otherwise be incurred or imposed. This section shall
 17 not remove or limit any existing liability protection afforded
 18 under any other law.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
 21 the explanation's substance by the members of the general assembly.

22 This bill concerns child welfare, including provisions
 23 relating to children under the custody, control, and
 24 supervision of the department of human services (DHS) and
 25 provisions relating to children who are, or are at risk of
 26 becoming, victims of sex trafficking.

27 CASE PERMANENCY PLAN. The bill amends the definition of
 28 case permanency plan under Code section 232.2, to provide that
 29 if the child is 14 years of age or older, the case permanency
 30 plan shall be developed in consultation with the child and,
 31 at the option of the child, up to two persons chosen by the
 32 child shall be members of the child's case planning team if
 33 such persons are not a foster parent of, or caseworker for, the
 34 child. DHS may reject a person selected by a child to be a
 35 member of the child's case planning team at any time if the DHS

1 has good cause to believe that the person would not act in the
2 best interests of the child. One person selected by a child to
3 be a member of the child's case planning team may be designated
4 to be the child's advisor and, if necessary, advocate for
5 certain purposes.

6 TRANSITION SERVICES PLAN. A case permanency plan includes
7 a written transition plan of services for a child who is 16
8 years of age or older. The bill amends this requirement to
9 require a written transition plan for a child who is 14 years
10 of age or older and requires the services plan to include
11 information on supports, activities, and referrals to programs
12 that would assist the child in transitioning from foster care
13 to adulthood. The bill requires the written transition plan
14 to include money management among other areas of need to aid
15 in the child's successful transition to adulthood from foster
16 care, and that the transition plan shall be reviewed and
17 updated at a minimum of every six months. As a part of the
18 transition services plan, DHS is required, on or before the
19 date the child reaches the age of 18, to provide the child
20 with a certified copy of the child's birth certificate, social
21 security card, and driver's license or government-issued
22 nonoperator's identification card unless the child has been
23 placed in foster care for less than six months.

24 PERMANENCY HEARING — OTHER PLANNED PERMANENT LIVING
25 ARRANGEMENTS. A court order for an out-of-home placement of
26 a child includes a determination by the court in a permanency
27 hearing that continuation of the child in the child's home is
28 contrary to the child's welfare. The bill amends the option
29 for the court after a permanency hearing to order another
30 planned permanent living arrangement to only allow such
31 option if the child is 16 years of age or older, and provides
32 guidelines for the court to follow if the court enters such an
33 order.

34 CHILD ABUSE — SEX TRAFFICKING. The bill includes the
35 recruitment, harboring, transportation, provision, obtaining,

1 patronizing, or soliciting of a child for the purpose of
2 commercial sexual activity as defined in Code section 710A.1 in
3 the definition of "child abuse" under Code section 232.68.

4 CHILD SEX TRAFFICKING REPORTING PROCEDURES. If DHS has
5 reasonable cause to believe that a child under the placement,
6 care, or supervision of the department is, or is at risk of
7 becoming, a sex trafficking victim as defined in the bill, DHS
8 is required to identify the child as a sex trafficking victim
9 or at risk of becoming a sex trafficking victim, refer the
10 child for appropriate services, and refer the child within
11 24 hours to the appropriate law enforcement agency. DHS is
12 also required to report a child who is reported as missing or
13 abducted to law enforcement and to the national center for
14 missing and exploited children within 24 hours after receipt
15 of the report.

16 TRANSFER OF LEGAL CUSTODY OF CHILD AND PLACEMENT. If the
17 court after a dispositional hearing transfers the legal custody
18 of a child to DHS and the child is placed in a juvenile shelter
19 care home or with an individual or agency for foster care, DHS
20 is required to assign decision-making authority to the juvenile
21 shelter care home, individual, or agency for the purpose of
22 applying the reasonable and prudent parent standard during the
23 child's placement.

24 REASONABLE AND PRUDENT PARENT STANDARD. The bill defines
25 "reasonable and prudent parent standard" for purposes of
26 certain decision-making regarding children placed in foster
27 care and provides an immunity provision to DHS, or any
28 individual, agency, or juvenile shelter care home under Code
29 chapter 237 that applies the standard in good faith.

30 The bill makes conforming Code changes.